

**STORAGE NAME:** h0411s1.ft

**DATE:** April 24, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
FINANCE AND TAXATION  
ANALYSIS**

**BILL #:** CS/HB 411

**RELATING TO:** Manufactured Asphalt/Indexed Tax

**SPONSOR(S):** Committee on Finance and Taxation and Representative Bradley and others

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 0
  - (2) FINANCE AND TAXATION YEAS 16 NAYS 0
  - (3) GENERAL GOVERNMENT APPROPRIATIONS
  - (4)
  - (5)
- 

**I. SUMMARY:**

Currently, a 6 percent tax is imposed upon the cost of materials that become a component part or ingredient of finished (manufactured) asphalt, and upon the cost of transportation of the components or ingredients.

Additionally, an "indexed tax" is imposed on manufactured asphalt. The indexed tax was originally set at \$.38 per ton by statute. It is adjusted on July 1, of each year according to a formula tied to the Producer Price Index from the U.S. Department of Labor, Bureau of Statistics, and was recently set at \$.48 per ton.

It is estimated that more than seventy percent of asphalt that is produced "for one's own use" in this state is used for state and local government public works projects.

During the 1999 Session, the Legislature provided a 20 percent exemption from the indexed tax on manufactured asphalt used in any state or local government public works project. Ch. 99-334, L.O.F.

This bill increases the indexed tax exemption from 20 percent to 40 percent.

The bill also creates a sales and use tax exemption for railway roadway materials used in the construction, repair, or maintenance of railways.

The estimated fiscal impact upon General Revenue is (\$1.2) million for FY 00-01 and (\$1.3) million for FY 01-02. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$0.1) million for FY 00-01 and (\$0.1) million for FY 01-02. The total estimated fiscal impact for this bill is (\$1.3) million for FY 00-01 and (\$1.4) million for FY 01-02.

This bill has an effective date of July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1988, the Legislature passed revisions to s. 212.06, F.S., based on recommendations for a uniform, statewide manufacturer's use tax for asphalt. This section levies a 6 percent tax on the cost of materials that become a component part or ingredient of finished asphalt, and upon the cost of transportation of the components or ingredients.

Additionally, an indexed tax, imposed on costs associated with the manufacture of asphalt, was set at \$.38 per ton for the first year. The indexed tax is adjusted on July 1, of each year in conjunction with a formula tied to the Producer Price Index average of the "materials and components for construction" series calculated and published by the U.S. Department of Labor, Bureau of Statistics. Currently the indexed tax rate is \$.48 per ton, the same as it was a year ago.

It is estimated that a majority of asphalt is manufactured for "one's own use", and that more than seventy percent of that asphalt is used in conjunction with government public works contracts.

In 1999, proponents argued that the imposition of a tax on asphalt used on state and local government public works projects results in an administrative burden and expensive waste for both contractors, and governments, since contractors must factor in the cost of the tax into their bids for such projects.

Proponents asserted that the government is forced to pay more than it otherwise would for public works projects requiring manufactured asphalt due to unnecessarily high bids. Subsequently, the state government collects the money back in the form of a tax from successful bidders. They believe both contractors and governments waste time and money to administer what amounts to an even exchange of money.

In 1999 the Legislature amended s. 212.06, F.S., providing an exemption from the indexed tax of 20 percent of the manufactured asphalt used for any state or local government public works project. Ch. 99-334, L.O.F. The Department of Revenue allows the exemption for federal public works projects.

No thorough study has been completed since the effective date of the first reduction in the indexed tax to make a determination as to whether or not manufactured asphalt providers

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have actually reduced their bids to reflect the prorated portion of the estimated \$4 million in savings enjoyed by such providers. With only six months of experience, the best that can be expected is to establish indicators of savings pass-throughs.

The Producer Price Index has remained stable enough to hold the indexed tax to the same rate as that for the period July, 1999 through June 2000. In the light of stable costs, an analysis of bids should reveal the savings realized by bidders.

Presently, railway roadway materials used in the construction, repair, or maintenance of railways are subject to sales and use tax.

**C. EFFECT OF PROPOSED CHANGES:**

This bill increases the percent of qualifying manufactured asphalt exempt from the indexed tax from 20 percent to 40 percent.

The bill also creates a sales and use tax exemption for railway roadway materials used in the construction, repair, or maintenance of railways. Railroad roadway materials shall include rails, ties, ballasts, communication equipment, signal equipment, power transmission equipment, and any other track materials.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1** amends s. 212.06, F.S. to state that beginning July 1, 2000, the indexed tax imposed on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

**Section 2** states that it is the intent of the Legislature that the partial exemption apply to federal public works projects and that the amendment including federal projects in s. 212.06(1)(c)2.a., F.S., is remedial in nature and merely clarifies existing law.

**Section 3** amends s. 212.08(7), F.S., to create a sales and use tax exemption for railroad roadway materials used in the construction, repair, or maintenance of railways.

**Section 4** provides for an effective date of July 1, 2000.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

	<u>FY 00-01</u>	<u>FY 01-02</u>
Asphalt		
General Revenue	(\$0.6M)	(\$0.7M)
Trust Fund	(*)	(*)
Local	(\$0.1)	(\$0.1)

	<u>FY 00-01</u>	<u>FY 01-02</u>
Railway Materials		
General Revenue	(\$0.6M)	(\$0.6M)
Trust Fund	(*)	(*)
Local	(*)	(*)

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

If the indexed tax were totally repealed, the private sector would save on administrative costs by not having to factor the indexed tax into bids.

**D. FISCAL COMMENTS:**

N/A

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds, or to take an action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared

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with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill presents no constitutional problems.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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